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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 5 April 2006 from the Permanent Mission of Tonga to the United Nations addressed to the Chairman of the Committee

Please find attached herewith the first report of the Government of the Kingdom of Tonga on the implementation of Security Council resolution 1540 (2004) for appropriate action by the Committee (see annex).

(*Signed*) Mahe **Tupouniua**
for Ambassador

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Annex to the note verbale dated 5 April 2006 from the Permanent Mission of Tonga to the United Nations addressed to the Chairman of the Committee

Report of the Kingdom of Tonga on the implementation of Security Council resolution 1540 (2004)

1. The Kingdom of Tonga welcomes the unanimous adoption of United Nations Security Council Resolution 1540 (2004) on the 28th April 2004 which complements other international efforts to the prevention of proliferation of weapons of mass destruction and the fight against terrorism.

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

2. Tonga has never developed, acquired, manufactured, possessed, transported, transferred or used nuclear, chemical or biological weapons and their means of delivery. It has therefore never supported and will not support in any form any activities to non State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2

Decides also that all States in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. The Criminal Offences (Amendment) Act 2002 under Section 78 defines acts of terrorism to include (a) involves or causes (vi) the manufacture, possession, acquisition, supply or use of weapons, explosives of nuclear, biological or chemical weapons as well as research into and the development of biological and chemical weapons.

4. Part III of the Transnational Crimes Bill 2005 which was passed during the 2005 Session of the Legislative Assembly contains relevant provisions to criminalize the financing of terrorism, provision of services, dealing with terrorist property except where the attorney general is advised of the dealing, provision of weapons to a specified entity, and to recruitment of terrorists.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) ***Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;***

5. Tonga does not produce, use, store or transport nuclear, chemical or biological weapons. Schedule 3 of the Foreign Investment Regulations 2002 under Table 2 (c) Prohibited Activities includes as item no. 6 "Production of weapons of warfare". Goods requiring a special import licence includes (a) firearms and ammunition, explosives of all kinds including fuses and detonators; noxious stupefying or tear gas in any form and all weapons and instruments or appliances for firing and using for gas containers or cartridges for such weapons or other instruments or appliances which require licence issued by the Ministry of Police.

(b) ***Develop and maintain appropriate effective physical protection measures;***

6. Refer to (5) above.

(c) ***Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;***

7. Effective and appropriate border control and law enforcement measures have already been put into place to detect, deter, prevent and combat the illicit trafficking and brokering of such items. Support is also given by the sharing of intelligence in the region as well as international contacts through the various organizations concerned with Customs, Police and Immigration matters.

(d) ***Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.***

8. Refer to (5) above, however there are export restrictions and export licensing for (a) exportation of medical biological and organic products; chemicals; drugs, poisons; and approval is required to be obtained from the Director of Health and (b) exports of veterinary biological and organic products where approval is required to be obtained from the Director of Agriculture.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

9. Refer to (5) above.

Operative Paragraph 7

Recognises that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions.

10. Tonga fully supports the provision of assistance to those States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of the resolutions, and will advise in due course the specific area for which additional support is required.

Operative Paragraph 8

Calls upon all States:

(a) ***to promote the universal adoption and full implementation, and , where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;***

11. Tonga is a contracting party to most of the international treaties and conventions, and a is a State Party to the following regional and multilateral treaties:

- Treaty on Non-Proliferation of Nuclear Weapons (NPT) - 7th July 1971, 15th July 1971, 24th August 1971(s);
- Convention on Prohibition of Development, Manufacturing and Stockpiling of Bacteriological (Biological) Weapons and on their Destruction (BWC) 28th September 1976;
- Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC);
- Geneva Protocol (Declaration of Succession) 19th July 1971;
- Convention on the Physical Protection of Nuclear Material, 24th February 2003;
- Convention on Prohibition of Development, Manufacturing, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) 29th May 2003; and
- South Pacific Nuclear Free Treaty (Treaty of Rarotonga) – signed 2nd August 1996; and Deposited instrument of Ratification on the 18th December 2000.

(b) ***to adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non proliferation treaties;***

12. In 2002, the amendments to the Criminal Offences Act provided broad coverage for compliance under key multilateral treaties. As a follow-up, the Transnational Crimes Bill 2005 was passed during the 2005 Session of the Legislative Assembly, and defines under Part 1, 2 "explosive or other lethal device" – (a) an explosive, weapon or device that is designed or has the capability to cause death, serious bodily injury or substantial material damage; or (b) a weapon or device that is designed or has the capability to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of toxic chemicals, biological agents, toxins, or similar substances or radiation or radioactive materials. Part III of the aforementioned Bill deals with Counter terrorism conventions, and defines "nuclear material" (section 13); movement of nuclear material (section 14); licence for nuclear material (section 15); licence for nuclear movement (section 16); offences relating to nuclear material (section 16).

(c) ***to renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons an the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of no proliferation and of promoting international cooperation for peaceful purposes;***

13. Tonga continues to work closely with the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention with regards to the fulfillment of reporting obligations, as well as attending regional and international seminars organized by the respective institutions.

(d) ***to develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws.***

14. Although Tonga does not produce any nuclear, chemical, or biological weapons or materials, it has advised the public of all of the conventions, agreements, laws it has become a signatory to, as well as the obligations under such laws.

Operative Paragraph 9:

1. ***Calls upon all States to promote dialogue and cooperation on non proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;***

15. As noted earlier, although Tonga does not produce any nuclear, chemical or biological weapons or materials, it has continued to provide press releases and media coverage of all meetings, seminars covered in the subject area in order to promote dialogue and cooperation in the subject area.

2. Further to counter that threat, calls upon all States in accordance with their national legal authorities and legislation and consistent with international law. To take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

16. The relevant Ministries continue to work closely together with their counterparts in the region, as well as with international organizations to coordinate and support activities relating to the detection and prevention of illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials.

3. Expresses its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end.

17. The Kingdom of Tonga affirms its willingness to fulfill its obligations with regards to implementation and monitoring of resolution 1540, as well as any further follow-up work which may be required.